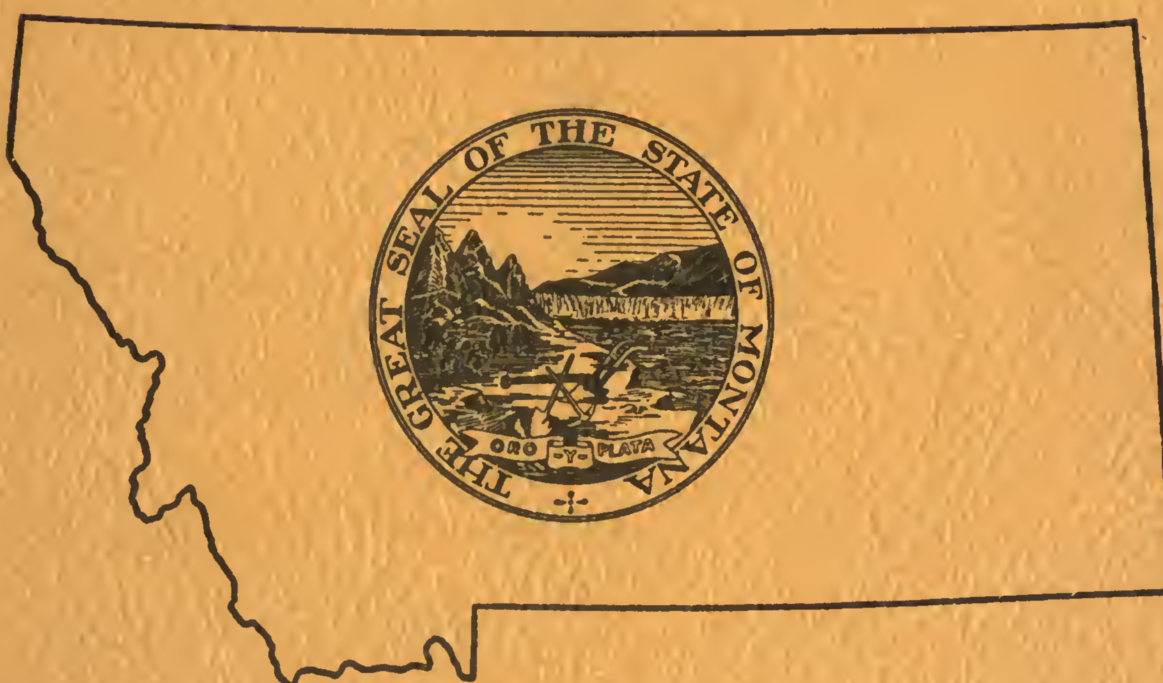
INCOME TAXATION



Montana Legislative Council

December, 1970

Report No. 35

INCOME TAXATION

A REPORT TO THE FORTY-SECOND
LEGISLATIVE ASSEMBLY

by the

MONTANA LEGISLATIVE COUNCIL
December 1970

Report No. 35

To Members of the Forty-Second Legislative Assembly:

The Legislative Council has been directed to study some facet of Montana's tax structure by almost every session of the legislature. The 41st Session was no exception, and the enclosed report is the result of Senate Joint Resolution No. 5, Senate Resolution No. 31, and House Resolution No. 23.

I am sure you will find the report a complement to the "Montana Fiscal Affairs Study" and a valuable aid in considering tax legislation during the 42nd Legislative Assembly.

Respectfully submitted,

SENATOR FRANK W. HAZELBAKER
Chairman
Montana Legislative Council

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1969 - 1970

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WHEREAS, during the last interim, the Legislative Council conducted a study of Montana corporation license taxes, and

WHEREAS, although this study considered a tax based upon the gross income of businesses, this subject was not explored in depth, and

WHEREAS, it is vital that the Legislative Assembly have complete information on alternative methods of taxing businesses before conclusions are reached regarding the most feasible method of taxing such businesses.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to conduct a comprehensive study of alternative methods of taxing businesses, including consideration of a tax like the business and corporation license tax levied by the State of Washington, during the 1969-70 interim.

BE IT FURTHER RESOLVED, that the Legislative Council be requested to submit a formal written report, including recommendations and any necessary implementing legislation to the Forty-Second Legislative Assembly with a view toward making the taxation of businesses in Montana more equitable.

BE IT FURTHER RESOLVED, that the Chief Clerk of the House of Representatives be requested to send a copy of this resolution to the Legislative Council.

SENATE JOINT RESOLUTION NO. 5

A JOINT RESOLUTION OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE LEGISLATIVE COUNCIL EXPAND ITS STUDY OF PROPERTY TAXATION CONDUCTED DURING THE 1959-60 INTERIM WHICH WAS SUPPLEMENTED BY ITS STUDY OF PROPERTY TAXATION AND THE PROPERTY CLASSIFICATION LAW CONDUCTED DURING THE 1963-64 INTERIM, ITS STUDY OF TAXATION CONDUCTED DURING THE 1965-66 INTERIM AND ITS STUDY OF THE CORPORATION LICENSE TAX CONDUCTED DURING THE 1967-68 INTERIM AND INCLUDE IN THIS EXPANDED STUDY CONCLUSIONS REGARDING THE EQUITY OF THE PRESENT TAX STRUCTURE AND ANY RECOMMENDATIONS NECESSARY TO MAKE TAXATION MORE EQUITABLE IN MONTANA.

WHEREAS, during the 1959-60 interim the Legislative Council conducted a study of property taxation in Montana, and during the 1963-64 interim conducted a supplemental study of property taxation and the Montana property classification law, and

WHEREAS, although substantial improvement in appraisal and assessment of properties for taxation has been made in recent years, serious and inequitable variations in assessment levels still appear to exist, and additional problems in property taxation remain to be solved, and

WHEREAS, during the 1965-66 interim the Legislative Council, with assistance from professional economists from the University of Montana, Montana State University, and the State Board of Equalization conducted a study of the Montana tax structure, and

WHEREAS, due to limitations of time and data available, this study was essentially a study of the taxation of individuals, and

WHEREAS, during the 1967-68 interim, the Council conducted a study under two resolutions, one requesting a study of the corporation license tax and the other requesting a study of all aspects of the taxation of corporations in Montana, and

WHEREAS, because of the emphasis on the Montana corporation license tax, the 1967-68 study was restricted to that tax only, excluding other aspects of the taxation of corporations in the state, and

WHEREAS, during the conduct of these two studies, a substantial amount of data were collected and prepared in form for analysis by computers, and

WHEREAS, the data collected are essentially for yearly periods, yet data covering a period of time must be available before firm conclusions can be drawn regarding the equity of taxation in the state, and

WHEREAS, there is a need for a determination of the equity of taxation under the present tax structure of the state.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is requested to expand its study of taxation conducted during the 1965-66 interim and its study of the Montana corporation license tax conducted during the 1967-68 interim.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to expand its study of taxation conducted during the 1965-66 interim and its study of the Montana corporation license tax conducted during the 1967-68 interim.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to include in this expanded study, data covering a period of several years for each tax, data on all aspects of the taxation of corporations in the state, and conclusions regarding the equity of the present tax structure together

with any recommendations necessary to make taxation more equitable in Montana.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to expand its study of property taxation conducted during the 1959-60 interim and its study of property taxation and the Montana Property Classification Law conducted during the 1963-64 interim, particularly with respect to the appraisal and assessment of properties for taxation and the functioning of the Property Classification Law.

BE IT FURTHER RESOLVED, that the Legislative Council may, in its discretion, appoint any necessary advisory persons or groups in the conduct of this study and may request assistance from the State Board of Equalization and units of the Montana University System.

BE IT FURTHER RESOLVED, that the Legislative Council may retain any consultants necessary for the conduct of this study.

BE IT FURTHER RESOLVED, that the Legislative Council is requested to submit a formal report, together with implementing legislation if necessary, to the Forty-Second Legislative Assembly.

BE IT FURTHER RESOLVED, that the Secretary of State is directed to send copies of this resolution to the Executive Director of the Legislative Council and the Chairman of the State Board of Equalization.

CHAPTER I

INTRODUCTION

Senate Joint Resolution No. 5, as adopted by the Forty-First Legislative Assembly, made two different requests of the Legislative Council. The first, referring to property taxation, is discussed by the Council in Report No. 31, "Property Taxation." The second, discussed on the following pages, asks the Council "to expand its study of taxation conducted during the 1965-66 interim and its study of the Montana corporation license tax conducted during the 1967-68 interim." The Legislative Assembly further requested the Council "to include in this expanded study, data covering a period of several years for each tax, data on all aspects of the taxation of corporations in the state, and conclusions regarding the equity of the present tax structure together with any recommendations necessary to make taxation more equitable in Montana."

In addition, House Resolution No. 23[1] asked that the Council "conduct a study of alternative methods of taxing the income of businesses including consideration of a tax similar to the business and corporation license tax levied by the State of Washington."

In complying with those parts of the requests of Senate Joint Resolution No. 5 and House Resolution No. 23 relating to the taxing of corporations and businesses, specifically with regard to consideration of a tax similar to the business and corporation license tax levied by the State of Washington, the Council considered two alternatives for the compilation of material necessary for its reports. The first, and most costly, method entailed the hiring of outside professional consultants who, with the help of the Council staff, would have completed the report. The second alternative, chosen by the Council, appeared to be the most practical method, at the same time one involving very little cost to the Council or additional costs to the citizens of Montana. This was to use the Montana Fiscal Affairs Study prepared for the Interim Committee on Fiscal Affairs for which the Forty-First Legislative Assembly had appropriated $78,200 from the state's general fund for the study during the 1969-71 biennium. In addition, federal funds were also made available to that committee.

Because of the study being made by the Interim Committee on Fiscal Affairs, the Council concluded that it (the Council) would make no effort to duplicate the efforts of the Committee. Rather, the Council decided that it would use the data gathered by the Committee as a basis for the Council's report. Unfortunately, because of the length and complexity of the study, the preliminary draft of the study was not released to the Council until mid-July, 1970. This allowed the Council about two and one-half months (until October 2, 1970) to make use of and analyze the data in the study. The Council agrees that to give full justice to the data requires more available time for study.

The Council also decided that in the interest of economy it would not reprint the Committee's data as it related to the Council report.

In the brief time available, the Council discussed and considered the following areas of taxation: business and occupation tax, insurance premium tax, corporation license tax on state and national banks, and the personal income tax. Although not specifically charged with the responsibility of studying the personal income tax, the Council decided that the request to study "the equity of the present tax structure" allowed it this prerogative.

The Council wishes to thank Governor Forrest H. Anderson and the members of the Interim Committee on Fiscal Affairs (Senator W. A. Groff, Senator Jean Turnage, Senator William H. Bertsche, Senator James M. Haughey, Representative

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[1] Senate Resolution No. 31 is identical.

James Lucas, Representative Larry W. Fasbender, Representative Conrad F. Lundgren and Representative LeRoy Aspevig), for making the study of that Committee available. This includes, of course, Dr. William Diehl, Director of the Montana Fiscal Affairs Study staff, who supervised the study for the Committee.

The Council also extends its thanks to the State Board of Equalization for its assistance and cooperation during the conduct of this report. Special thanks are due Mr. Howard Lord, Chairman; Vernon Miller, Director of Administration and Secretary; and Howard Vralsted, Director of Income and Corporation License Tax Department, for the State Board of Equalization.

CHAPTER II

GROSS RECEIPTS TAXES

As stated previously in Chapter I, the data contained on the following pages first appeared in the preliminary draft of the Montana Fiscal Affairs Study. In using this data, the Council has at times briefly summarized, and in some instances, quoted verbatim from that study. For the purpose of the Council report, the term "gross receipts tax" is synonymous with business and occupation tax.

Only seven states impose general gross receipts taxes. These are Alaska, Delaware, Hawaii, Indiana, Mississippi, Washington and West Virginia. The states imposing general gross receipts taxes have turned to this form of taxation for primarily two reasons. These reasons constitute special circumstances. They have turned to gross receipts taxation because: (1) another tax is preferred but cannot be effectuated, and (2) gross receipts taxes may be imposed competitively and lucratively on the exports of business in the taxing state.[2] Brief summaries of pertinent data relating to the gross receipts taxes of Washington and West Virginia follow.

The Washington state business and occupation tax (gross receipts tax) is levied in addition to a general retail sales tax. No taxes are imposed on net income. The business and occupation tax is levied on the privilege of engaging in business activities and the tax base is the value of products, gross proceeds of sales, or gross income depending on the type of business. An exemption of $3,600 a year is allowed each business. Surtaxes were added to the Washington state tax rate both in 1955 and in 1959. The tax is an important general fund revenue source for the state. Rates of the tax vary from a .01% (one hundredth of one percent) levy on wholesalers of wheat and oats to 1.00% (one percent) on most services and miscellaneous businesses. General wholesalers, retailers, manufacturers and extractors are taxed at 0.44% (forty-four hundreths of one percent).

West Virginia also levies a gross business tax (gross receipts tax) in addition to a general sales and use tax. The West Virginia tax provides one of the clearest examples of how an overclassified tax can confuse tax liability. Numerous involved rates are levied against equally numerous classifications of taxpayers, and it is difficult to see just what principles of tax policy might be involved in each differentiation.

The gross receipts taxes of both Washington and West Virginia are broad-based levies on the privilege of doing business, and are considered to be primarily imposed in place of an income tax. In all states using a similar type of gross receipts tax, the rates are generally low, due to the broad base of the tax. A comprehensive study of gross receipts taxation draws the conclusion that, over the years, the maximum tolerable rate of gross receipts taxation for wholesalers, retailers, and manufacturers has been about one-half of one percent. As rates increase beyond one-half of one percent, businesses tend to pass the increased burden on to their customers, making the business and occupational taxes similar in effect to a selective sales tax.[3]

As can be seen, the gross receipts tax is a highly complex tax, both from the standpoint of the taxpayer and the tax administrator. This is true both in highly industrialized states and in less industrialized states such as Montana,

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[2] Interim Committee on Fiscal Affairs, Preliminary Draft of Montana Fiscal Affairs Study, A Working Document Prepared by the University of Montana Bureau of Business and Economic Research, Missoula: January 21, 1970, Vol. III, p. 907.

[3] Ibid., p. 913.

due to the types of businesses to be considered and the multistage application of the tax. Washington now uses twenty separate business classifications, and West Virginia is the most highly differentiated with twenty-two separate business classifications. It appears that as new business forms are considered for inclusion under this form of tax, a separate tax rate must be negotiated for each, followed by legislative pressures for rate reductions.

Many administrative problems arise with the implementation of a gross receipts tax, not the least of which is compliance. In order to be assured of proper compliance on the part of business, the state must have access to highly skilled auditors with special expertise in the area of foreign business sales allocations and sales in interstate commerce. The Montana State Board of Equalization is understandably understaffed for the task of making numerous determinations in such areas as determining the degree and amount of tax to be applied to a wide range of business transactions.

Furthermore, few guidelines currently exist in Montana law which could be effectively followed for definitions, exclusions, deductions and exemptions.

In the state of Washington, for example, the necessity to characterize transactions and activities as retailing, or performing services, or processing for hire, has resulted in much litigation leading to numerous administrative regulations.

In both Washington and West Virginia, the gross receipts tax laws have attempted to assess and tax products which are transferred between and among vertically and horizontally integrated businesses. While such business forms are not as common in Montana as in other states, the provision is necessary and results in highly complex accounting determinations by both the businesses taxed and the state tax administrators.

Problems involving the taxation of business receipts derived from interstate commerce are not new to Montana. In its 1968 report on Montana's Corporation License Tax, the Council was unable to effectively determine the equity and effectiveness of the tax due to complex allocation formulas used by foreign firms doing business in Montana, and subsequently concluded that with a limited staff and budget for administration of the corporation tax statutes, this problem would continue to plague efforts to analyze the corporation license tax. Such problems would be no different with a gross receipts tax nor would such a tax in itself be more effective at taxing multistate corporations. Gross receipts taxation affords no privileges in taxing interstate commerce not afforded by corporate net income taxation.[4]

Another feature of the gross receipts tax which diminishes its effectiveness is its relationship to the individual income tax. For example, proprietorships and partnerships are not taxable business entities under current Montana law, rather their income tax liability is borne by their owners and reported as individual state income tax. Gross receipt taxes, on the other hand, are generally applied to all forms of business organizations. Such a tax would then impose an additional tax burden on proprietorships and partnerships within Montana. In order to remedy this situation, three courses of action could be taken with the following results:

1. Proprietorships and partnerships could be excluded from any proposed gross receipts tax. In this case, the tax status of such organizations remains the same, and the possibility of new revenue from a gross receipts tax is diminished to a comparison of the added gross receipts tax against the existing corporation license tax on equal bases with similar inherent problems of administration.

2. Owners of proprietorships and partnerships could be excluded

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[4] Ibid., p. 925.

from the individual income tax. Such a move would significantly reduce revenue from the individual income tax, with no guaranty that the loss would be compensated for under a gross receipts tax plan.

3. A compromise measure requiring payment of either the corporation license tax or the gross receipts tax by all forms of business organization. It is doubtful that any proprietorship or partnership would elect to pay the gross receipts tax if lesser or minimal corporation license taxes were available under current Montana laws.

Data collected by the Montana Fiscal Affairs study group points out the business environment which would be affected by the adoption of a gross receipts tax in Montana. Table I (page 6) shows 1966 estimates of gross receipts in twelve Montana industry categories arranged by form of organization (i.e., corporations, proprietorships, partnerships). It points out that proprietorships and partnerships make up 37.8% of the total gross receipts from businesses. Also of interest is the fact that four industries (agriculture, including forestry and fisheries, oil, manufacturing and retail trade) realize nearly three-fourths of the gross receipts of all businesses in the state of Montana.

In summary, then, it appears that while gross receipts taxation has been used by states for many years, it is not a popular form of taxation. Experience has been that where gross receipts taxation was initially designed to be a major revenue producer, it has since been abandoned or curtailed.

It would also seem that reforms designed to rectify the administrative problems inherent to most gross receipts tax plans cannot be taken without destroying its relative usefulness as a form of taxation. In Montana, it further appears that the adoption of a gross receipts tax would raise serious issues concerning economic efficiency and economic development.[5]

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[5] Ibid., p. 933.

TABLE I

Montana Gross Receipts of Corporations, Sole Proprietorships and Partnerships by Industry in 1966

Industry	Corporations	Sole Proprietorships	Partnerships	Total	Percent
			(Thousands of Dollars)		
Agriculture, Forestry and Fisheries	$ 72,737	$ 705,618	$ 72,750	$ 851,105	16.8
Metal Mining	92,988	--	--	92,988	1.8
Crude Oil and Natural Gas	1,104,257	--	--	1,104,257	21.8
Other Mining	4,060	--	--	4,060	0+
Contract Construction	86,916	93,815	25,615	206,346	4.1
Manufacturing	678,422	--	17,957	696,379	13.8
Utilities	287,409	15,935	--	303,344	6.0
Wholesale Trade	193,872	44,101	15,977	253,950	5.0
Retail Trade	350,858	614,973	90,084	1,055,915	20.9
Finance, Insurance and Real Estate	71,899	37,959	7,373	117,231	2.3
Services	63,217	80,470	31,343	175,030	3.5
Other	163,972	29,562	1,922	195,456	3.9
Total	$3,170,607	$1,622,433	$263,021	$5,056,061	100.0
Percent	62.7	32.1	5.2	100.0	--

Sources: "A Statistical Analysis of Corporation Taxation in Montana," Montana Corporation License Tax, Montana Legislative Council Report No. 26 (October, 1968), pp. 17-36.

Statistics of Income, 1966, Business Income Tax Returns (U. S. Treasury Department, Internal Revenue Service).

CHAPTER III

EQUITY WITHIN PRESENT MONTANA TAX STRUCTURE

In its study of the equity of Montana's current tax structure, the Council gave special attention to three areas of taxation, namely:

1. Insurance premium tax
2. Corporation license tax on state and national banks
3. Individual income tax

Insurance Premium Tax

Montana's insurance premium tax, imposed under the provisions of Chapter 286, Laws of 1959, was reviewed in its entirety with regard to equity. The Council found that in Montana, as in two-thirds of the fifty states imposing some form of ad valorem tax on either the gross or net premiums collected by insurance companies, no discrimination is made against foreign firms operating within the state. The basic tax on each insurer, whether foreign or domestic, is 2.75 percent of net premiums. An additional tax of three-fourths of one percent of gross underwriting profits is levied against writers of wet marine and transportation insurance. A fire-marshal tax of one-quarter of one percent of fire insurance premiums written is also extracted. All insurance premium taxes are imposed on foreign and domestic insurers in lieu of all other Montana taxes with the exception of property taxes on real estate, improvements, and office furniture and fixtures.[6]

An exception to the equal assessment of foreign and domestic insurers lies with the State Insurance Commissioner's right under Section 40-2826, R.C.M., 1947, to retaliate against foreign insurers whose home states impose a higher aggregate of license and other fees on Montana companies than Montana imposes on foreign companies. During fiscal 1970, this retaliatory tax was imposed on foreign-based companies from four higher-taxing states operating in Montana. The revenue to the state from the imposition of the retaliatory tax has diminished from $56,000 deposited to the state general fund in fiscal 1969 to $26,000 during fiscal 1970. This was a result of the 1969 amendment to Section 40-2726, R.C.M., 1947, which raised the fee for the annual continuation of a certificate of authority from $25 to $300. This increase in the aggregate taxes and fees assessed against foreign insurers reduced the number of states against which Montana could impose a retaliation levy. It also significantly increased the revenue from annual continuations and served as a deterrent to those foreign companies who had formerly been licensed to do business in Montana for advertising purposes only but who were not in fact operating within the state.[7]

Another feature of Montana's insurance premium tax law which was of interest to the Council was the provision of Section 40-2821, R.C.M., 1947, which allowed any insurer with more than fifty percent of its paid-in capital stock invested in Montana securities to deduct any other tax paid to the state of Montana or its political subdivisions. Upon further investigation, the Council found that most foreign-based insurance firms operating in Montana consisted of sales personnel only and that, as such, they did not pay a property tax. With regard to domestic firms, only four such firms currently meet the requirements of this provision, two of which are being allowed the deduction.[8]

Regarding the economic aspects of the insurance premium tax, it has been suggested that, if a new tax on insurance premiums is imposed by the state or an existing one is increased, insurance companies will not accept a net price after paying the tax which is lower than the net price which they have pre-

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6 Laws of Montana, 1959, Chapter 286, as amended.
7 Interview with representative of Montana State Auditor, October 7, 1970.
8 Ibid.

viously received. Instead, they will be willing to sell policies to residents of the state only at a price which is high enough to cover the tax and allow them exactly the same price after the tax as before.[9] It has been further noted that Montana ranks forty-seventh out of the fifty-one jurisdictions in the amount of insurance premium tax collected, due to the low population and low population-density of the state. Montana, however, receives a larger share of total tax revenue from this tax than do thirty-one other states. In comparing Montana's rates with those of other jurisdictions, Montana ranks tenth out of fifty-one on foreign companies and fourth out of forty-four for domestic companies. In comparison to the Rocky Mountain states, Montana ranks second out of the eight for the tax rate on foreign companies and first on domestic companies.[10]

Corporation License Tax on State and National Banks

Until June 30, 1967, state banks in Montana were taxed under the Montana corporation license tax. Federal law prohibited the taxation of national banks under the Montana corporation license tax law at that time. Up until that time it had always been the contention of state banks that the payment of corporation license taxes placed them in an unfavorable position with national banks. In 1967 the Fortieth Legislative Assembly, recognizing this factor, exempted state banks from the payment of the corporation license tax until such time as national banks were subject to the same tax. Section 84-1501.4, R.C.M., 1947, states: "State banks organized under the Montana Bank Act shall not be required to pay the Montana corporation license tax provided for under Chapter 15 of Title 84 of the Revised Codes of Montana, 1947, until and unless the said tax is required to be paid by national banks organized under the laws of the United States."

With the advent of Public Law 91-156, additional state taxes on national banks are authorized in the period from December 24, 1969, until January 1, 1972, depending upon the location of the bank's principal office. A state may impose any tax that is imposed generally throughout the state, on a nondiscriminatory basis, on a national bank whose principal office is located in the state, but only to the same extent that the tax is imposed on state-chartered banks. States cannot, however, tax intangible personal property of national banks except for the share tax as authorized by Section 5219. If the principal office of a national bank is not located in the state, the state may levy on the bank: (1) sales and use taxes, (2) real property taxes, (3) documentary taxes, (4) tangible personal property taxes, and (5) various license, registration, transfer, and excise taxes and fees imposed in connection with tangible personal property if levied throughout the state on a nondiscriminatory basis. Effective January 1, 1972, the language of Section 5219 is eliminated and replaced with a provision that, for purposes of a federal or state tax, a national bank is deemed a bank organized and existing under the laws of the state or other jurisdiction within which its principal office is located.

The effect of this new act is to open the door for further state taxation of national banks, as well as state banks, due to the nondiscriminatory provisions. Many states have and more undoubtedly will take advantage of this new source of taxation.[11] Montana presently imposes a bank share tax on the capital, surplus and undivided profit and ad valorem taxes on real property of banks.

The new federal legislation would open the door to at least one form of taxation on all banks; the corporation license tax could now be imposed on all national banks with principal offices in Montana, as well as state banks.[12]

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9 Interim Committee on Fiscal Affairs, op. cit., p. 809.
10 Ibid., pp. 810-814.
11 Ibid., p. 834.
12 Ibid., p. 835.

During the fiscal year ending June 30, 1966, the last fiscal year for which state banks paid the corporation license tax, the state received $344,879 from that source. During the previous fiscal year ending June 30, 1965, the state received $360,358. As of June 30, 1966, there were 83 state banks and 49 national banks. As of June 30, 1965, there were 82 state banks and 48 national banks.[13]

As of June 30, 1970, there were 87 state banks and 47 national banks in Montana. The passage of a bill repealing Section 84-1501.4, R.C.M., 1947, by the Forty-Second Legislative Assembly and specifically subjecting state and national banks to the corporation license tax would produce $1,000,000 in revenue each year of the 1971-73 biennium according to estimates of officials of the Board of Equalization. Of this $1,000,000 in revenue, Board of Equalization officials estimate $600,000 will be received from the taxation of state banks and $400,000 from national banks.[14]

Although the number of state banks has shown only a slight increase in the four-year period from June 1966 to June 1970, Board of Equalization officials estimate that the increased volume of business done will result in an estimated increased revenue of from under $400,000 to $600,000 to the state. Furthermore, while the number of national banks is only slightly over half that of state banks, for the most part they are larger banks doing a larger volume of business than the state banks, thus the estimate of $400,000 corporation license tax revenue from those banks.[15]

The soundness of these estimates can be borne out by the fact that on June 30, 1970, resources of 87 state banks and one trust company totalled $778,652,360. On that same date, resources available from 49 national banks were $880,577,156.[16]

Individual Income Tax

In light of the wealth of fiscal material relating to Montana's individual income tax provided by the preliminary draft of the Montana Fiscal Affairs Study, the Council included within the scope of its research a review of this tax, which represents the largest single source of state tax revenue.

In studying the individual income tax from the standpoint of equity, the Council considered both the equity of the Montana income tax per se, and its equity in comparison to other states utilizing a similar tax.

Concerning the equity of the Montana tax to state residents in all income classifications, the preliminary draft of the Montana Fiscal Affairs study, utilizing information provided by the Montana State Board of Equalization, includes Table II and Table III which follow.

Table II (page 10) shows the following:

1. Of the 263,590 Montana income tax returns filed in 1967, the average gross income of all returns was $5,456 and the average tax paid per return was $102.82.

2. The average tax paid as a percent of gross income averaged 1.88% for all returns filed in 1967.

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13 Interview with officials of the Montana State Board of Equalization, October 2, 1970.
14 Ibid.
15 Ibid.
16 Montana State Superintendent of Banks, Abstract of Reports of Condition of Montana State Banks, National Banks, and Trust Companies: June 30, 1970, No. 202.

TABLE II

Number of Returns, Average Gross Income and Tax Paid, and Tax Paid as a Percent of Gross Income by Level of Gross Income for Montana Income Tax Taxable Year 1967

Level of Gross Income (Thousands of Dollars) Over	Not Over	Number of Returns (Dollars)	Average Gross Income (Dollars)	Average Tax Paid (Dollars)	Tax Paid as Percent of Gross Income (Dollars)
	0	5,847	--	--*	--
0	1	28,494	585	2.49	0.43
1	2	35,186	1,481	10.48	0.71
2	3	28,213	2,487	24.07	0.97
3	4	26,900	3,493	40.22	1.15
4	5	23,903	4,491	58.65	1.31
5	6	22,593	5,497	77.94	1.42
6	7	21,569	6,491	102.69	1.58
7	8	18,518	7,476	118.75	1.59
8	9	13,906	8,471	144.83	1.71
9	10	10,144	9,471	180.50	1.91
10	15	19,025	11,817	267.65	2.26
15	20	4,521	17,067	506.97	2.97
20	28	2,512	23,332	820.46	3.52
28	50	1,693	35,618	1,422.92	3.99
50	75	318	59,773	2,283.02	3.82
75	100	99	86,697	2,565.66	2.96
100	---	149	220,872	3,791.95	1.72
Total		263,590	5,456	102.82	1.88

Source: Thirty-Third Biennial Report of the Montana State Board of Equalization to the Governor and Members of the Forty-First Legislative Assembly, p. 18.

* $79,000 was paid by persons reporting no adjusted gross income.

3. The effective rate of taxes paid rises from .43% in the lowest bracket to 3.99% at the $28,000 to $50,000 bracket, at which time the rates diminish to 1.72% at the over-$100,000 level.

It appears that above the $50,000 gross income level, the amount of federal income tax liabilities allowed as a deduction on the state forms exerts a greater influence upon the taxpayer's state tax liability than do the state rate-graduation tables.[17]

Table III (page 12) shows the relationship between the various classifications of gross income and the total revenue generated by the Montana individual income tax. The cumulative percentages show what portion of the total taxes paid were derived from the various tax brackets and some idea of the relative importance of each bracket to the total. Of special interest in this table are the facts that:

1. Fifty-one percent of the tax paid came from 89% of the filing population. This population represented 67% of the total adjusted gross income and was located in gross income levels under $10,000.

2. Ninety-six percent of the tax return units fell below $15,000 gross income. This group represented 82% of the gross income and paid 69% of the total tax.

3. Tax return units falling above $15,000 gross income paid 31% of the total tax, but represented only 18% of the total gross income and 4% of the total tax return units.

From the information presented in these tables, the Fiscal Affairs study group concluded that if the income tax is expected to produce increased amounts of revenue, such revenue must come from the lower-income brackets.[18]

<u>Interstate Comparison</u>

Comparisons of Montana's income tax structure with the income tax programs of other states is extremely difficult. The primary difficulty lies in the fact that, while most other states originally patterned their individual income tax programs after the federal income tax, their respective legislatures have since made modifications and alterations which make the provisions of the federal program a poor uniform standard for interstate comparison.

The staff of the Interim Committee on Fiscal Affairs has pointed out four specific factors which must be considered when making interstate comparisons of income tax structures:

1. The level of dependent exemption allowances or credits for dependents.

2. Whether the federal income tax is allowed as a deduction on the state return.

3. Whether income splitting is allowed or not.

4. The nature of the rate structure applied to taxable income in each state.[19]

In order to properly recognize these dominant influences on income tax liabilities, the Fiscal Affairs Study group studied thirty of the most comparable

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[17] Interim Committee on Fiscal Affairs, <u>op. cit.</u>, Vol. II, p. 413.
[18] <u>Ibid.</u>, p. 416.
[19] <u>Ibid.</u>, p. 421.

TABLE III

Cumulative Percentages of Gross Income, Number of Returns and Tax Paid by Gross Income Bracket, Montana Income Tax Taxable Year 1967

Gross Income Bracket (Thousands of Dollars) Over	Not Over	Adjusted Gross Income (Cumulative Percentage)	Number of Returns (Cumulative Percentage)	Tax Paid (Cumulative Percentage)
	0	0	2	0
0	1	1	13	1
1	2	5	26	2
2	3	10	37	4
3	4	16	47	8
4	5	24	56	13
5	6	32	65	20
6	7	42	73	28
7	8	52	80	36
8	9	60	85	44
9	10	67	89	51
10	15	82	96	69
15	20	88	98	78
20	28	92	99	85
28	50	96	99	94
50	75	97	99	97
75	100	98	99	98
100	---	100	100	100

Sources: Thirty-Third Biennial Report of the Montana State Board of Equalization to the Governor and Members of the Forty-First Legislative Assembly, p. 18.

Montana Fiscal Affairs Study.

state programs and prepared tables which isolate the most comparable features of each. Samples of these tables are reproduced on the following pages. Even though the Council respects the high degree of accuracy and professional judgment utilized in their preparation, the tables are presented here without comment due to the number of subjective alternatives available to the reader. For example, any conclusions as to interstate tax equity derived from an analysis of the foregoing tables must include a consideration of the relative importance of the respective states' income tax to their total revenue structures.

Table IV (page 14) shows the state income taxes paid by married couples with two children (four exemptions) for each of the thirty states including Montana. Income levels shown are net incomes after deductions but before the subtraction of federal taxes and exempted amounts. For purposes of the computations in Table IV and subsequent tables, it was assumed that one spouse earned all the income and all taxpayers itemized deductions. The computations accounted for the number and level of exemptions in each state, the federal income tax deduction if the states allowed it as a deduction, income splitting, and the individual state rate structures.

Table V (page 15) shows the combined state and federal income taxes paid by a married couple with two children at various income levels in the thirty states. The figures in Table V were computed by assuming equal itemized deductions on federal and state returns, except for income taxes paid. The data also account for other key income tax provisions of each state, such as exemptions, credits, income splitting, and credits and surcharges in 1969.

Table VI (page 16) shows the net additional income tax burden to each income classification due solely to the imposition of a state income tax. The inclusion of this table by the Fiscal Affairs study group served a two-fold purpose in that the information is valuable to a comparison of state income tax burdens, and to a study of the relative attractiveness of the states from the standpoint of a taxpayer considering the net addition to his total income tax bill if he were to move from one state to another.

Table IV

State Tax Liability by Income Level After Deductions Except for
Federal Income Taxes, but Before Exemptions
Montana and Twenty-nine States

Family of Four

State	Income After All Deductions Except for Federal Taxes, but Before Exemptions										
	$2,500	$5,000	$7,000	$10,000	$15,000	$25,000	$50,000	$100,000	$200,000	$500,000	$1,000,000
Alabama	--	15	75	165	357	711	1,401	2,409	3,869	7,472	13,452
Alaska[1]	3	83	167	254	465	1,003	3,022	8,296	21,198	64,382	137,382
Arizona	--	27	80	150	334	823	1,861	3,383	5,596	11,040	20,074
Arkansas[1]	--	23	88	163	353	753	2,003	4,503	9,503	24,503	49,509
California[1, 3]	--	---	49	124	344	1,024	3,494	8,494	18,494	48,494	98,494
Colorado	--	14	86	177	412	981	2,109	3,761	6,166	12,075	21,879
Delaware[1]	2	50	131	251	547	1,120	2,268	4,169	7,228	15,375	29,196
Georgia[1]	--	8	59	142	388	988	2,488	5,488	11,488	29,488	59,488
Idaho[3]	45	156	285	432	770	1,419	2,704	4,582	7,317	14,020	25,141
Kansas[3]	2	44	87	158	312	713	1,618	2,943	4,867	9,609	17,478
Kentucky	--	35	135	244	482	924	1,820	3,202	5,356	10,955	20,259
Louisiana[3]	--	---	16	56	132	271	685	1,483	2,638	6,491	13,726
Maine[1, 3]	--	10	35	80	190	500	1,500	3,960	9,920	27,920	57,920
Maryland[1]	--	44	155	280	530	1,030	2,280	4,780	9,780	24,780	49,780
Minnesota	--	124	284	462	850	1,650	3,398	5,966	9,722	18,891	34,096
Mississippi[1]	--	---	45	120	310	710	1,710	3,710	7,710	19,710	39,710
Missouri	--	16	55	107	234	515	1,063	1,862	3,018	5,878	10,624
MONTANA	2	63	155	268	548	1,217	2,769	5,312	9,094	18,347	33,691
Nebraska[1]	--	11	55	102	213	493	1,558	4,346	10,904	31,902	66,902
New Mexico[1, 3]	1	33	74	140	309	809	2,438	5,886	13,090	35,849	73,083
New York[1]	--	43	140	271	623	1,703	5,199	12,199	26,199	68,199	138,199
N. Carolina[1]	--	54	155	288	606	1,306	3,056	6,556	13,556	34,556	69,556
N. Dakota	--	19	48	125	457	1,199	2,782	5,112	8,516	16,849	30,670
Oklahoma[3]	--	16	41	80	188	506	1,288	2,434	4,095	8,196	15,002
Oregon[2, 3]	3	104	232	379	726	1,474	3,007	5,374	9,072	18,628	34,500
S.Carolina[1]	--	28	94	195	491	1,191	2,941	6,441	13,441	34,441	69,441
Utah	2	57	153	280	531	994	1,903	3,230	5,157	9,899	17,768
Virginia[1]	--	48	117	240	490	990	2,240	4,740	9,740	24,740	49,740
W. Virginia[1, 3]	1	31	62	95	175	376	1,130	3,101	7,939	24,132	51,632
Wisconsin[1]	30	125	246	400	767	1,600	3,683	7,849	16,182	41,181	82,844
States Above Montana	4	5	5	8	6	6	9	10	14	17	17
Highest State	Ida.	Ida.	Ida.	Minn.	Minn.	New York	New York	New York	New York	New York	New York
Lowest State	---	---	La.	La.	La.	Ky.	La.	La.	La.	Mo.	Mo.

Source: Montana Fiscal Affairs Study.

1. Federal income tax paid not deductible on state return. Federal tax paid in excess of $300 is deductible in Delaware. Federal tax paid over $500 is not deductible on state return in S. Carolina.

2. Surtax portion of federal income tax not deductible on state return; basic federal tax is deductible.

3. Income splitting allowed.

Table V

Total State and Federal Taxes Paid by Income Levels After Deductions Except for Income Taxes, but Before Exemptions
Montana and Twenty-nine States

Family of Four

State	Income After All Deductions, Except for Income Taxes Paid, but Before Exemption										
	$2,500	$5,000	$7,500	$10,000	$15,000	$25,000	$50,000	$100,000	$200,000	$500,000	$1,000,000
Alabama	15	437	971	1,564	2,910	6,194	18,077	48,933	121,189	352,729	739,104
Alaska	18	493	1,044	1,635	2,988	6,383	18,806	50,935	125,405	365,818	767,608
Arizona	15	447	975	1,553	2,893	6,266	18,284	49,264	121,605	353,549	740,627
Arkansas	15	444	982	1,563	2,097	6,221	18,347	49,645	122,547	356,646	747,396
California	15	425	951	1,532	2,900	6,397	19,018	51,002	124,723	362,164	758,664
Colorado	--	436	980	1,575	2,949	6,369	18,395	49,393	121,742	353,787	741,042
Delaware	17	465	1,015	1,633	3,048	6,459	18,467	49,531	121,998	354,546	742,725
Georgia	15	431	959	1,547	2,932	6,373	18,566	49,980	123,025	357,792	749,692
Idaho	53	553	1,135	1,776	3,215	6,653	18,663	49,672	122,020	354,235	741,793
Kansas	17	461	981	1,559	2,877	6,195	18,174	49,115	121,429	353,220	740,030
Kentucky	15	454	1,019	1,629	3,005	6,343	18,315	49,369	122,030	354,975	743,708
Louisiana	15	425	924	1,478	2,746	5,909	17,754	48,618	120,892	352,502	739,167
Maine	15	433	940	1,498	2,789	6,057	18,121	49,460	122,647	357,432	749,332
Maryland	15	461	1,035	1,656	3,035	6,401	18,472	49,739	122,613	356,709	747,459
Minnesota	12	527	1,136	1,800	3,276	6,803	18,975	50,142	122,599	355,355	743,852
Mississippi	15	425	948	1,529	2,876	6,193	18,216	49,375	122,115	355,543	745,143
Missouri	15	438	955	1,519	2,820	6,067	17,924	48,747	120,984	352,362	738,453
MONTANA	17	478	1,035	1,646	3,048	6,522	18,692	49,920	122,448	355,230	743,759
Nebraska	--	433	955	1,[illegible]15	2,805	6,053	18,147	49,592	122,884	358,347	751,397
New Mexico	16	452	970	1,545	2,875	6,257	18,543	50,115	123,411	359,255	753,026
New York	--	460	1,023	1,649	3,103	6,837	19,821	52,319	126,665	366,696	767,796
N. Carolina	15	469	1,035	1,662	3,091	6,579	18,821	50,343	123,523	358,958	752,008
N. Dakota	15	440	950	1,533	2,983	6,510	18,698	49,852	122,309	354,885	743,064
Oklahoma	15	437	944	1,498	2,788	6,061	18,026	48,941	121,243	352,895	739,461
Oregon	18	511	1,097	1,736	3,187	6,705	18,879	50,210	123,230	357,668	748,946
S. Carolina	15	447	986	1,589	3,007	6,505	18,769	50,304	123,496	358,931	758,981
Utah	17	472	1,033	1,656	3,036	6,377	18,302	49,212	121,499	353,287	740,097
Virginia	15	464	1,004	1,624	3,006	6,375	18,454	49,726	122,604	356,700	747,450
W. Virginia	16	450	961	1,509	2,778	5,977	17,955	49,168	122,170	356,560	747,885
Wisconsin	41	528	1,107	1,752	3,212	6,770	19,105	50,783	124,156	360,482	755,064
States Above Montana	4	5	5	7	6	6	8	11	14	17	17
Federal Tax in States with No Income Tax	15	425	912	1,434	2,651	5,733	17,446	48,114	120,256	351,010	736,010

Source: Montana Fiscal Affairs Study.

Table VI

Net Increase in Total Income Taxes Due to Imposition of State Income Tax

State	Family of Four Net Income After All Deductions Except for Income Taxes Paid, but Before Exemption										
	$2,500	$5,000	$7,500	$10,000	$15,000	$25,000	$50,000	$100,000	$200,000	$500,000	$1,000,000
Alabama	--	12	59	131	259	461	631	819	933	1,719	3,094
Alaska	3	68	132	201	337	650	1,360	2,821	5,149	14,808	31,598
Arizona	--	22	63	119	242	533	838	1,150	1,349	2,539	4,617
Arkansas	--	19	70	129	256	488	901	1,531	2,291	5,636	11,386
California	--	---	39	98	249	664	1,572	2,888	4,467	11,154	22,654
Colorado	--	11	68	141	298	636	949	1,279	1,486	2,777	5,032
Delaware	2	40	103	199	397	726	1,021	1,417	1,742	3,536	6,715
Georgia	--	6	47	113	281	640	1,120	1,866	2,769	6,782	13,682
Idaho	38	128	226	342	564	920	1,217	1,558	1,764	3,225	5,783
Kansas	2	36	69	125	226	462	728	1,001	1,173	2,210	4,020
Kentucky	--	29	107	195	354	610	869	1,255	1,774	3,965	7,698
Louisiana	--	---	12	44	95	176	308	504	636	1,492	3,157
Maine	--	8	28	64	138	324	675	1,346	2,391	6,422	13,322
Maryland	--	36	123	222	384	668	1,026	1,625	2,357	5,699	11,499
Minnesota	--	102	224	366	625	1,070	1,529	2,028	2,343	4,345	7,842
Mississippi	--	---	36	95	225	460	770	1,261	1,859	4,533	9,133
Missouri	--	13	43	85	169	334	478	633	728	1,352	2,443
MONTANA	2	53	123	212	397	789	1,246	1,806	2,192	4,220	7,749
Nebraska	--	8	43	81	154	320	701	1,478	2,628	7,337	15,387
New Mexico	1	27	58	111	224	524	1,097	2,001	3,155	8,245	17,016
New York	--	35	111	215	452	1,104	2,375	4,205	6,409	15,686	31,786
N. Carolina	--	44	123	228	440	846	1,375	2,229	3,267	7,948	15,998
N. Dakota	--	15	38	99	332	777	1,252	1,738	2,053	3,875	7,054
Oklahoma	--	12	32	64	137	328	580	827	987	1,885	3,451
Oregon	3	86	185	302	536	972	1,433	2,096	2,974	6,658	12,936
S. Carolina	--	22	74	155	356	772	1,323	2,190	3,240	7,921	15,971
Utah	2	47	121	222	385	644	856	1,098	1,243	2,277	4,087
Virginia	--	39	92	190	355	642	1,008	1,612	2,348	5,690	11,440
W. Virginia	1	25	49	75	127	244	509	1,054	1,914	5,550	11,875
Wisconsin	26	103	195	318	561	1,037	1,659	2,669	3,900	9,472	19,054
States Above Montana	4	5	5	8	6	6	9	10	15	17	17

Source: Montana Fiscal Affairs Study.

CHAPTER IV

CONCLUSIONS AND RECOMMENDATIONS

In Report No. 26, "Montana Corporation License Tax," dated October 1968, the Council recommended that Montana join the Multistate Tax Compact by statute. Previously, Montana had been an associate member. The Forty-First Legislative Session provided for full membership in the Compact by statute. In view of this, the Council, concurring with the Board of Equalization, recommends the passage of two bills required by the Compact.

These bills amend Sections 84-1501 and 84-4903, R.C.M., 1947, so as to comply with Article III, Section 2 of the Compact and relate to alternative methods of filing state corporation license tax and personal income tax returns.

The Council also recommends that the insurance premium tax be continued at the rates set by the 41st Legislative Assembly.

The Council further recommends that the Board of Equalization be budgeted sufficient funds to hire additional auditors to conduct selective audits of interstate business firms operating in Montana.

The Council recommends that no action be taken on a gross receipts or business and occupation tax at this time.

The Council recommends that any increase in individual income tax and other revenue measures be set upon aggregate appropriations offered the legislature by the Appropriations and Finance and Claims committees.

The Council recommends the passage of a bill repealing Section 84-1501.4, R.C.M., 1947, and the adoption of a new section, 84-1501.6, specifically subjecting state and national banks to the corporation license tax. The Council concludes as stated on page 11 of this report that the passage of such a bill will provide the state with an additional $1,000,000 of corporation license tax revenue in each year of the 1971-1973 biennium.

Finally, the Council accepts the preliminary draft of the Montana Fiscal Affairs Study as a comprehensive report. For the first time, in one study, fiscal information has been provided the Council and others interested in the fiscal problems of the state. The Council regrets that lack of time made it impossible for the Council to conduct a detailed analysis of the study. The Council concludes that further analysis should be made of the data contained in the study and that such areas as the corporation license tax and the individual income tax be further pursued, and that a report be prepared for the Forty-Third Legislative Assembly. Such a study could begin in April 1971 and conclude in June 1972, allowing fifteen months for such an analysis. The Council recommends that this study be assigned either to the Legislative Fiscal Review Committee with staff work to be done by the Legislative Fiscal Analyst or to a subcommittee or committees of the Council with staff work being done by the Legislative Fiscal Analyst.

APPENDICES

APPENDIX A

_________ BILL NO. _________

INTRODUCED BY ________________________

84-1501

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 84-1501, R.C.M., 1947, TO PROVIDE FOR AN ALTERNATIVE CORPORATION LICENSE TAX BASED ON GROSS SALES AS REQUIRED BY THE MULTISTATE TAX COMPACT AND TO ADD A CORRECTIVE STATUTORY REFERENCE."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 84-1501, R.C.M., 1947, is amended to read as follows:

"84-1501. Corporation license tax--organizations exempt therefrom--alternative tax based on gross sales. The term corporation includes associations, joint-stock companies, common-law trusts and business trusts which do business in an organized capacity whether created under and pursuant to state laws, agreements, declarations of trust. Every corporation, except as hereinafter provided and except as provided in section 40-2821 (5), R.C.M. 1947, organized and existing under the laws of the state of Montana and engaged in business therein, shall annually pay to the state treasurer, as a license fee for carrying on business in said state of Montana, such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth; and every corporation, except as hereinafter provided, and except as provided in section 40-2821 (5), R.C.M., 1947, organized and existing under the laws of any other state or country, or the United States, and engaged in business in the state of Montana, shall annually pay for the exclusive use and benefit of the state of Montana a license fee for carrying on its business in the state of Montana of such percentage or percentages of total net income received by such corporation in the preceding fiscal year from all sources within the state of Montana as hereinafter set forth.

The percentage of net income to be paid under this section shall be six and one-quarter per cent (6¼%) of all net income for the taxable period. The rate set forth in this act shall be effective for taxable years ending on or after February 28, 1969. For taxable years ending on or after February 28, 1971, the percentage of net income to be paid under this act shall be five and one-half per cent (5½%) of all net income for the taxable period. Every corporation subject to taxation under this act shall, in any event, pay a minimum tax of not less than fifty dollars ($50).

Pursuant to the provisions of article III, section 2, of the Multistate Tax Compact (title 84, chapter 67, Revised Codes of Montana, 1947) every corporation deriving income from sources both within and without the state of Montana and required to file a return and whose only activity in Montana consists of making sales and which does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000, may elect to pay a tax of one-half of one percent (.5%) of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the tax otherwise imposed under this section. The gross volume of sales made in Montana during the taxable year shall be determined according to the provisions of article IV, sections 16 and 17, of the Multistate Tax Compact.

There shall not be taxed under this title any income received by any--

(a). Labor, agricultural or horticultural organization;

(b). Fraternal beneficiary, society, order or association operating under the lodge system or for the exclusive benefit of the members of fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident or other benefits to the members of such society, order or association or their dependents;

(c). Cemetery company owned and operated exclusively for the benefit of its members;

(d). Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

(e). Business league, chamber of commerce, or board of trade, not organized for profit, and no part of the net income of which inures to the benefit of any private stockholder or individual;

(f). Civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare;

(g). Club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

(h). Farmers' or other mutual hail, cyclone or fire insurance company, mutual ditch or irrigation company, mutual or co-operative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting its expenses;

(i). Any co-operative association or corporation engaged in the business of operating a rural electrification system or systems for the transmission or distribution of electrical energy on a co-operative basis;

(j). Corporations or associations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title;

(k). In determining the license fee to be paid under this act, there shall not be included any earnings derived from any public utility managed or operated by any subdivision of the state, or from the exercise of any governmental function."

Section 2. The amendments provided for in this act shall be effective for taxable years beginning on and after January 1, 1971.

APPENDIX B

_______ BILL NO. _______

INTRODUCED BY _______________

84-4903

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 84-4903, R.C.M., 1947, TO PROVIDE FOR AN ALTERNATIVE TAX FOR NONRESIDENT TAXPAYERS BASED ON GROSS SALES AS REQUIRED BY THE MULTISTATE TAX COMPACT."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. Section 84-4903, R.C.M., 1947, is amended to read as follows:

"84-4903. Tax on nonresident--alternative tax based on gross sales. (a) A like tax is imposed upon every person not resident of this state which tax shall be levied, collected and paid annually, at the rates specified in section 84-4902, with respect to his entire net income as herein defined from all property owned and from every business, trade, profession, or occupation carried on in this state.

(b) Pursuant to the provisions of article III, section 2, of the Multistate Tax Compact (title 84, chapter 67, R.C.M., 1947, every nonresident taxpayer required to file a return, and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana, and whose annual gross volume of sales made in Montana during the taxable year do not exceed $100,000, may elect to pay an income tax of one-half of one percent (.5%) of the dollar volume of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the taxes imposed under sections 84-4902 and 84-4902.1. The gross volume of sales made in Montana during the taxable year shall be determined according to the provisions of article IV, sections 16 and 17, of the Multistate Tax Compact."

Section 2. This act is effective for taxable years beginning on and after January 1, 1971.

Section 3. This act is effective on its passage and approval.

APPENDIX C

__________ BILL NO. __________

INTRODUCED BY __________________________

84-1501.4

A BILL FOR AN ACT ENTITLED: "AN ACT SUBJECTING STATE AND NATIONAL BANKS TO THE MONTANA CORPORATION LICENSE TAX; AND REPEALING SECTION 84-1501.4, R.C.M., 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. There is added to title 84, chapter 15, R.C.M., 1947, a new section numbered 84-1501.6 which reads as follows:

"84-1501.6. State and national banks subject to tax. Effective with taxable years beginning on and after January 1, 1971, every bank organized under the laws of the state of Montana or of any other state and every national bank organized under the laws of the United States are subject to the Montana corporation license tax provided for under chapter 15, title 84, R.C.M., 1947."

Section 2. Section 84-1501.4, R.C.M., 1947, is repealed.

Section 3. This act is effective on its passage and approval.